

# Protecting your Intellectual Property at the Border

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U.S. Customs and  
Border Protection

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# Protecting your Intellectual Property at the Border

**CBP  
Officers  
conducting  
exam**



**Counterfeit  
batteries**



**Counterfeit  
networking  
hardware**



**CBP Officer  
examining  
toothpaste**



# Agenda

- Role of CBP in IPR Enforcement
- Importance of IPR Border Enforcement
- What IPR Does CBP Enforce?
- CBP's IPR Enforcement Strategy
- IPR Enforcement Process Overview
- Partnerships with the Trade Community
- Contact Information

# Role of CBP in IPR Enforcement

- Primary U.S. border enforcement authority
  - Ex-officio Authority
  - Issue and collect administrative, civil fines and penalties
  - Conduct audits of importers
  - Refer to ICE and assist investigations
- Advance U.S. trade policy
  - Advise other agencies on IPR border enforcement issues
  - Work with foreign governments

# Why is IPR Border Enforcement Important?

- IP supports America's innovation economy
- A CBP Priority Trade Issue
- Safety, National Security, and Economic Risks
- Political Interest

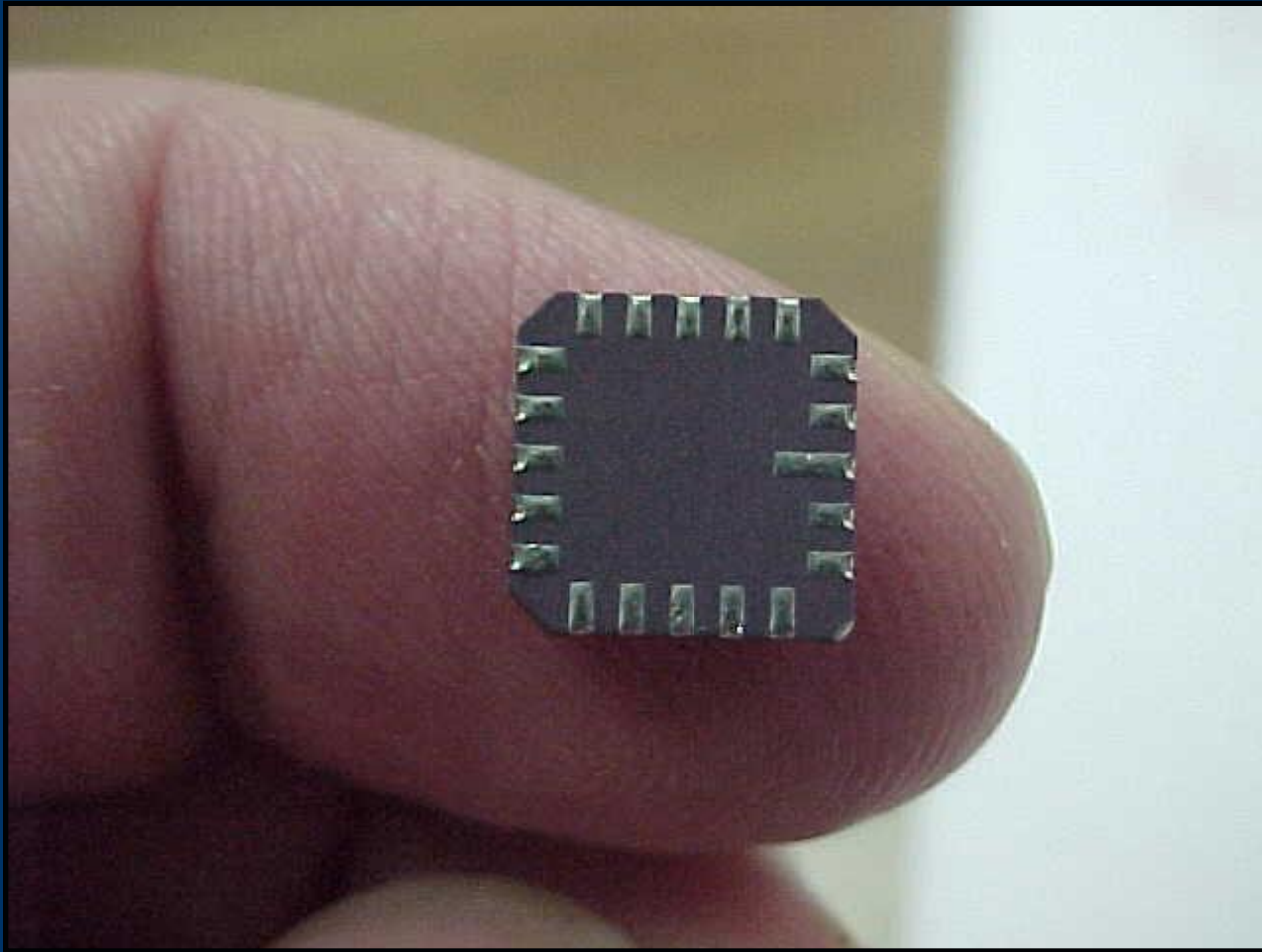
# IPR Safety Risk



Extension cords with counterfeit UL symbol



# IPR National Security Risk



Counterfeit integrated circuit

# IPR Economic Risk

- Take away significant revenues from rights holders
- Undermine the integrity and value of the IP
- Reduce R&D
- Damage knowledge economy



# Political Interest

- IPR Legislation
- GAO Audits on IPR Enforcement
- U.S. Chamber of Commerce's "Campaign to Protect America"

# What IPR Does CBP Enforce?

- **TRADEMARK**

- **COPYRIGHT**

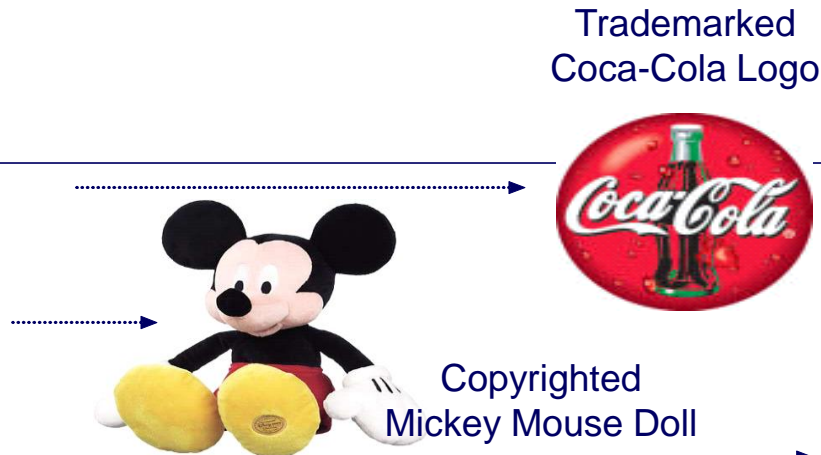
- **PATENT**

- Pursuant to International Trade Commission (ITC) Exclusion Orders

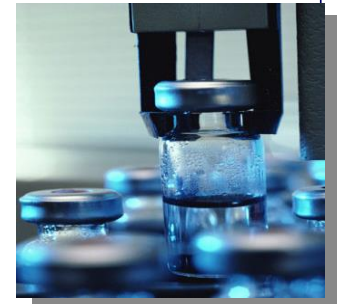
- **TRADE NAME**

- **TRADE DRESS**

- Pursuant to a court order



Patented Pharmaceuticals



RED BULL GMBH



Trade Dress for Wonder Bread



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# IPR Enforcement Strategy

- A risk based, multilayered strategy that pushes the border out by:
  - Partnering with the private sector, other government agencies, and foreign governments
  - Gathering advance information for targeted exams
  - Stopping IPR infringing goods at U.S. borders
  - Cutting edge approaches to identify and address patterns of IPR violative conduct
  - Punishing those who violate intellectual property laws

# CBP's Partnerships with Industry

- Goals

- Increased collaboration with rights holders and importers
- Reward cooperation
- Pursue bad actors

- Partnership Programs

- Recordation
- e-Allegations
- Information Sharing

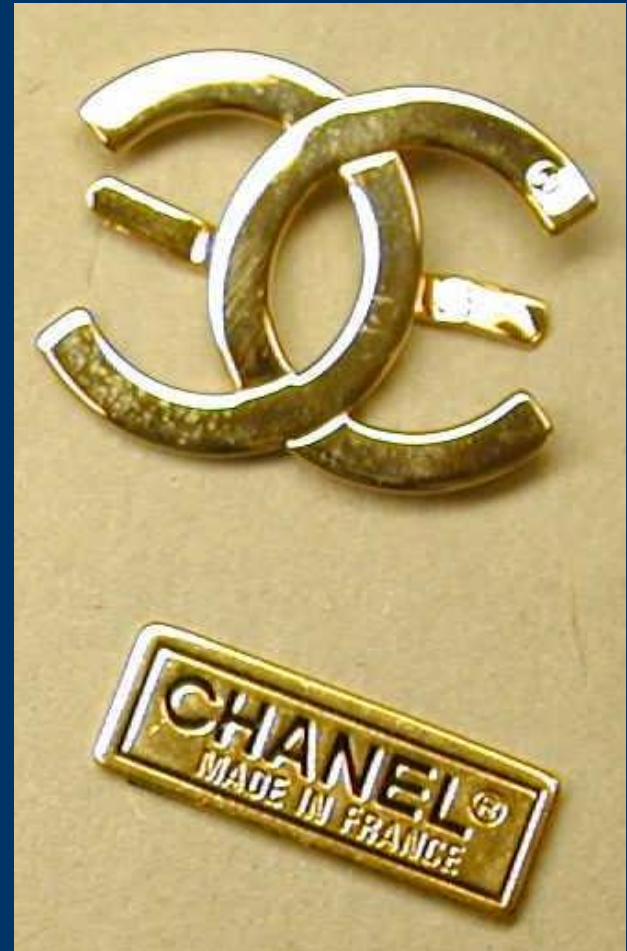
Trade Show



# Recording your rights with CBP

- Record trademarks and copyrights that have been registered

Chanel's Recorded Trademark



# Registration vs. Recordation

- Registration - The official act of filing a trademark with the U.S. Patent & Trademark office, or a copyright with the U.S. Copyright Office
- Recordation - Bringing a valid, registered right to CBP (R&R's IPR Branch) in order to protect against infringing imports
- **IMPORTANT!** – Recorded trademarks and copyrights are entitled to greater protection by CBP than non-recorded rights

# Recordation Benefits

## Recorded

- Enforcement of all types of IPR infringement
- Monetary fine applied to shipments of counterfeit goods
- Seizure disclosure information provided to right holder contact listed in IPR recordation database

## Not Recorded

- No protection for shipments containing confusingly similar trademark or possibly piratical copyright
- No fines





# CBP *IPR Enforcement*

*Copyright  
Registered Trademark*

**IPRR** INTELLECTUAL PROPERTY  
RIGHTS e-RECORDATION

<https://apps.cbp.gov/e-recordations/>

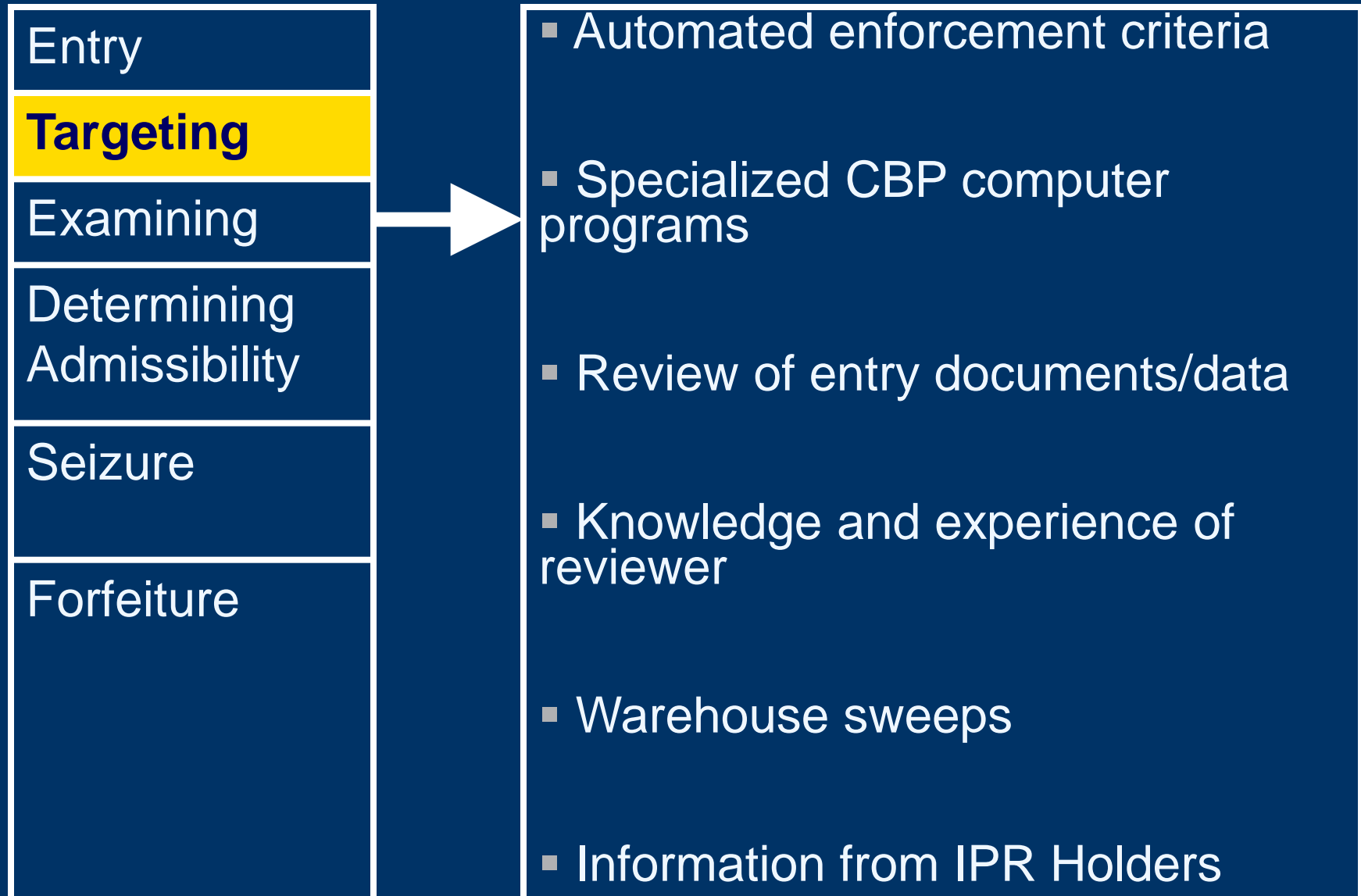


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# CBP Enforcement Process



# CBP Enforcement Process



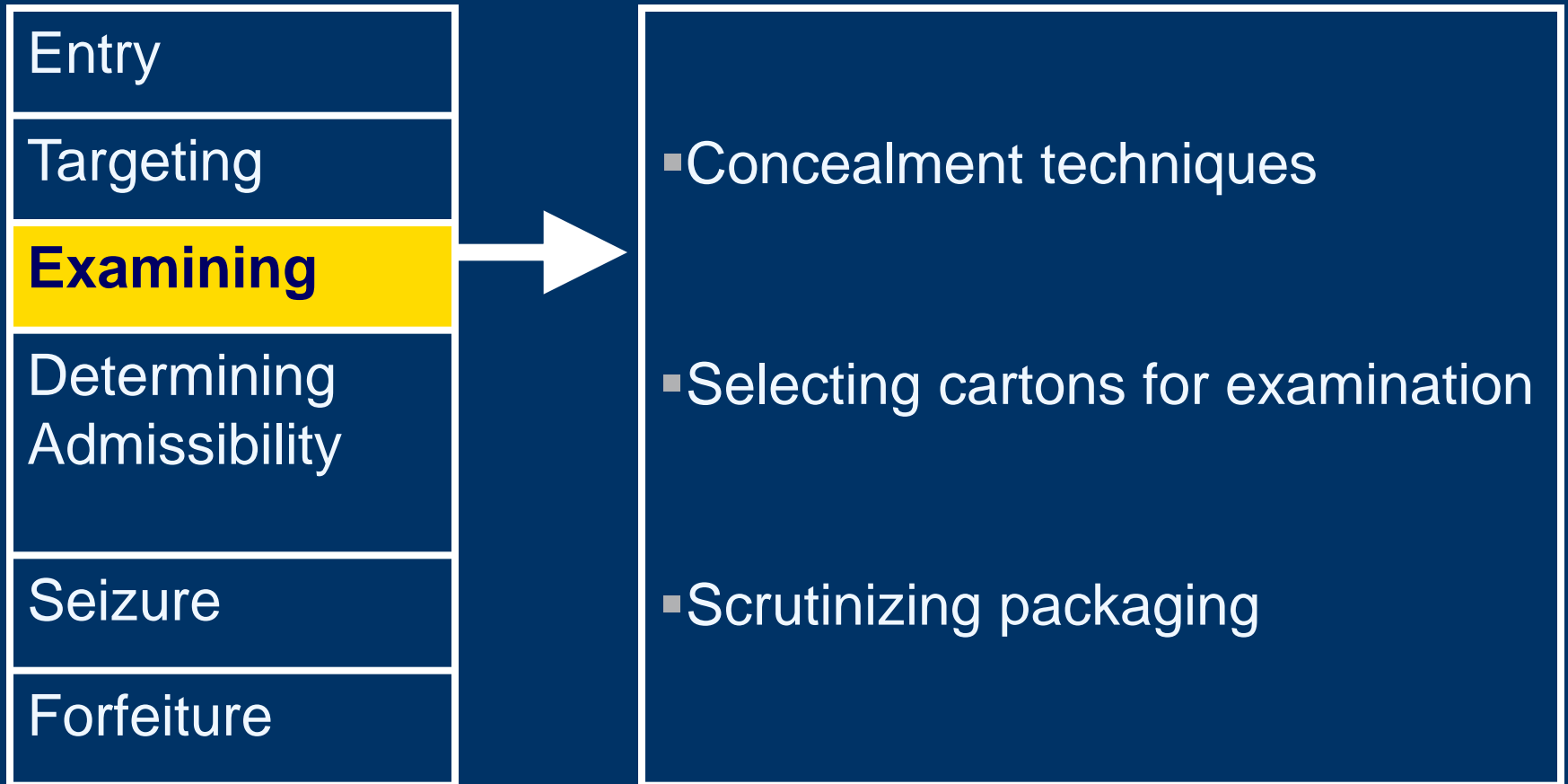
# Office of International Trade: National Targeting and Analysis Group (NTAG), Los Angeles

- Use Industry Officer approach to identify and stop infringing shipments from entering, transiting, or leaving the U.S.
- Perform IPR risk analysis and targeting
- Analyze industry-based seizure and import data
- Work with IPR holders to prepare training materials and product identification manuals
- Staff IPR Help Desk
- Manage IPR-related cargo selectivity criteria
- Compile national IPR seizure statistics
- Conduct IPR training for foreign governments
- Available to assist the trade and CBP personnel

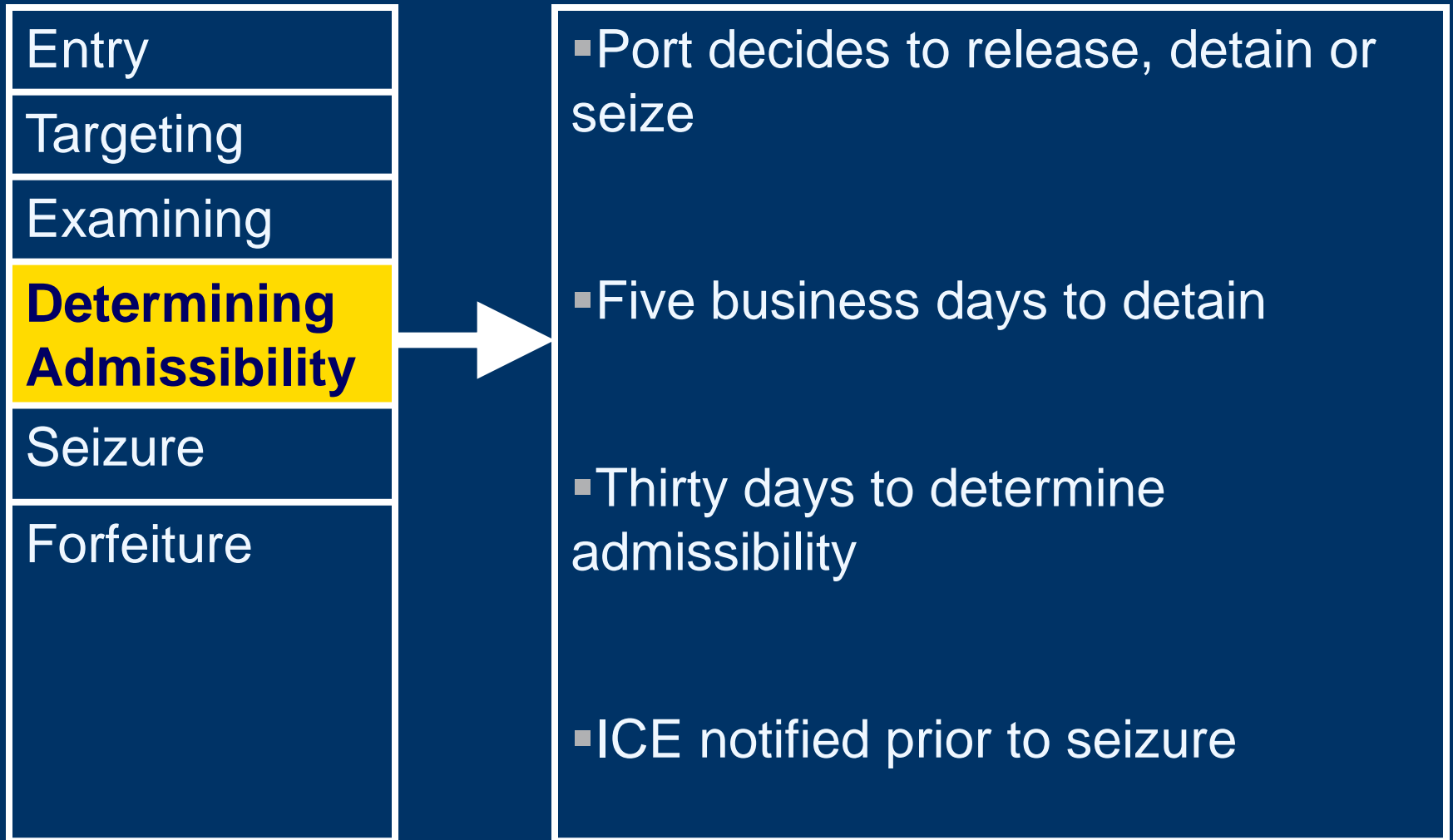
# NTAG Industry Officers

INDUSTRY	PRODUCTS
Consumer Safety and Certification Standards	Electrical articles, batteries, life safety and security equipment alarms, personal protective
Entertainment	MP3, MP4, MP5, iPods, DVD and Blu-Ray players, multi-media combo players, TVs, headphones, HDMI cables, cameras, game consoles and handheld players
Food, Beverages, and Tobacco	Soft drinks, juices, cigarettes
Golf	Clubs, balls
Imaging supplies	Ink, toner, copy equipment, machine parts, batteries
Information technology/telecommunications	Electronic hardware, networking equipment, semiconductor devices
Luxury/Sporting goods	Apparel, footwear, handbags, perfume, sunglasses, watches, jewelry
Optical media	Computer/interactive software, game software, movies, and music on disc, recordable Blu-ray, DVD and CD
Pharmaceuticals / Health and personal care	Medications, toothpaste, cosmetics
Toys	Action figures, anime, cars, dolls
Transportation	Auto parts, bearings
All other industries	

# CBP Enforcement Process



# CBP Enforcement Process





# Wide Universe of Fake Goods



Counterfeit Toothpaste

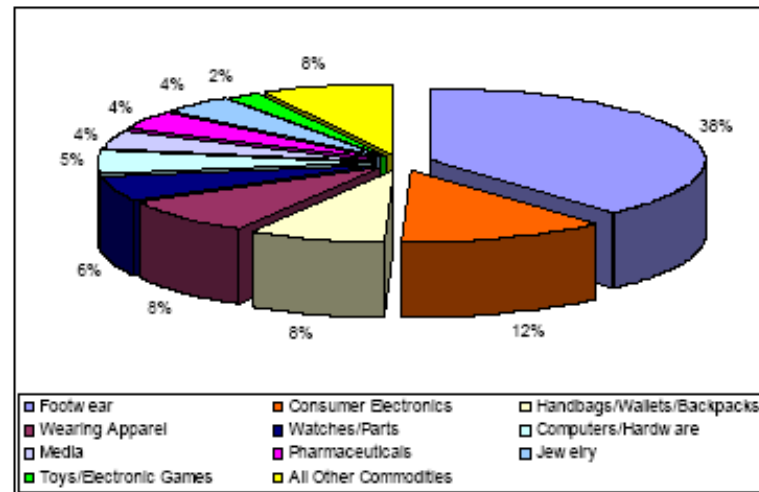


Counterfeit Shampoo

# Top Commodities Seized

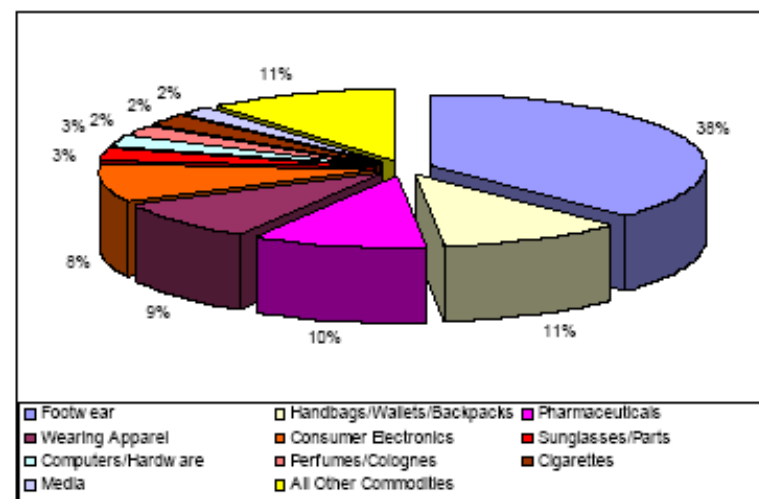
FY 2009 Commodity	Domestic Value	Percent of Total
Footwear	\$ 99,779,263	38%
Consumer Electronics	\$ 31,773,625	12%
Handbags/Wallets/Backpacks	\$ 21,501,614	8%
Wearing Apparel	\$ 21,462,276	8%
Watches/Parts	\$ 15,533,922	6%
Computers/Hardware	\$ 12,546,098	5%
Media	\$ 11,099,758	4%
Pharmaceuticals	\$ 11,057,991	4%
Jewelry	\$ 10,499,243	4%
Toys/Electronic Games	\$ 5,503,143	2%
All Other Commodities	\$ 19,941,004	8%

**Total FY 09 Domestic Value** \$ 260,697,937  
**Number of Seizures** 14,841



FY 2008 Commodity	Domestic Value	Percent of Total
Footwear	\$ 102,316,577	38%
Handbags/Wallets/Backpacks	\$ 29,609,053	11%
Pharmaceuticals	\$ 28,106,578	10%
Wearing Apparel	\$ 25,119,580	9%
Consumer Electronics	\$ 22,997,685	8%
Sunglasses/Parts	\$ 7,919,385	3%
Computers/Hardware	\$ 7,589,534	3%
Perfumes/Colognes	\$ 6,718,735	2%
Cigarettes	\$ 6,444,649	2%
Media	\$ 5,967,332	2%
All Other Commodities	\$ 29,941,771	11%

**Total FY 08 Domestic Value** \$ 272,728,879  
**Number of Seizures** 14,992

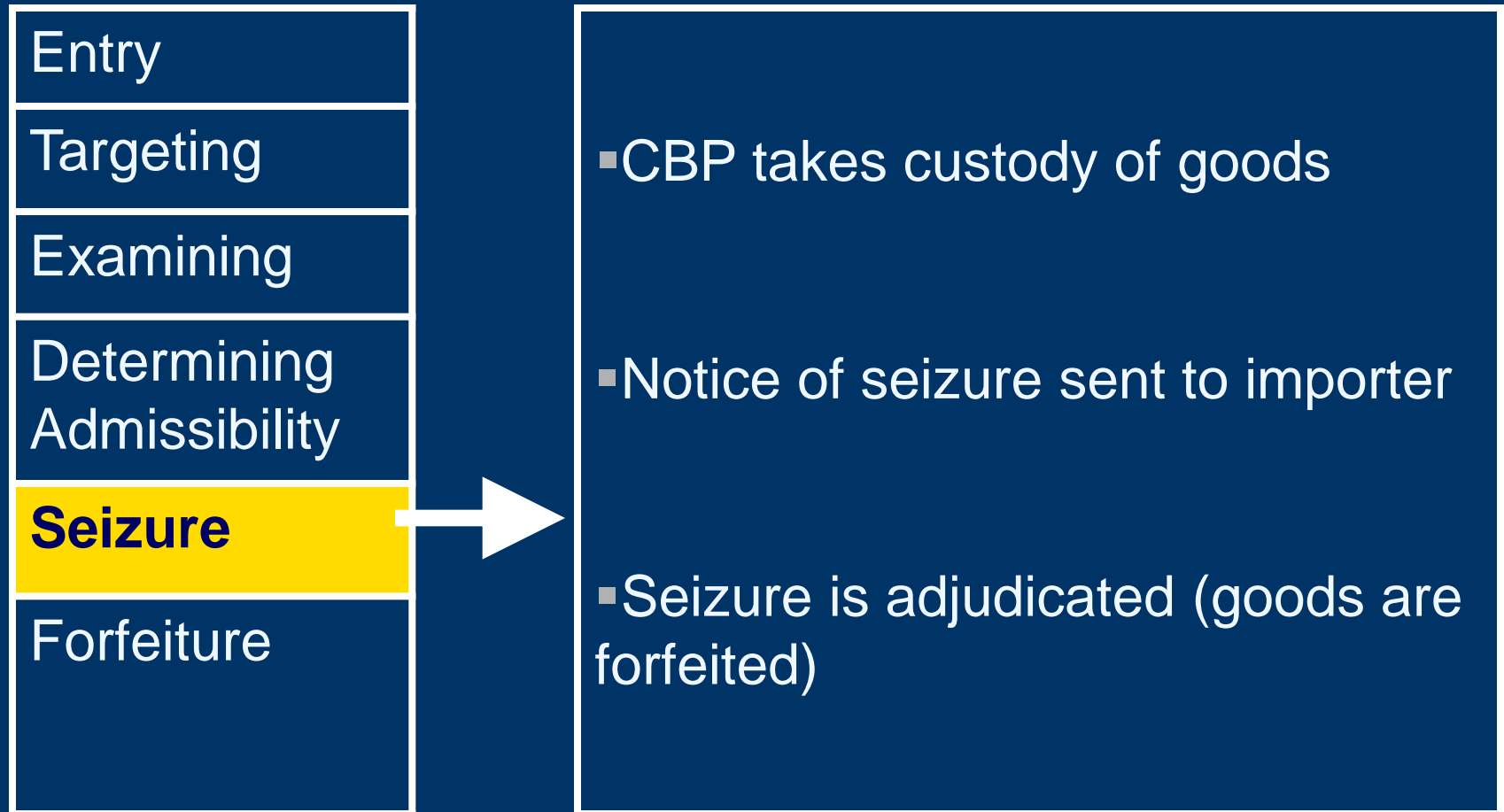


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Disclaimer  
The information contained on this page does not constitute the official trade statistics of the United States. The statistics, and the projections based upon those statistics, are not intended to be used for economic analysis, and are provided for the purpose of establishing CBP priorities and workload.

U.S. Immigration and  
Customs Enforcement

# CBP Enforcement Process



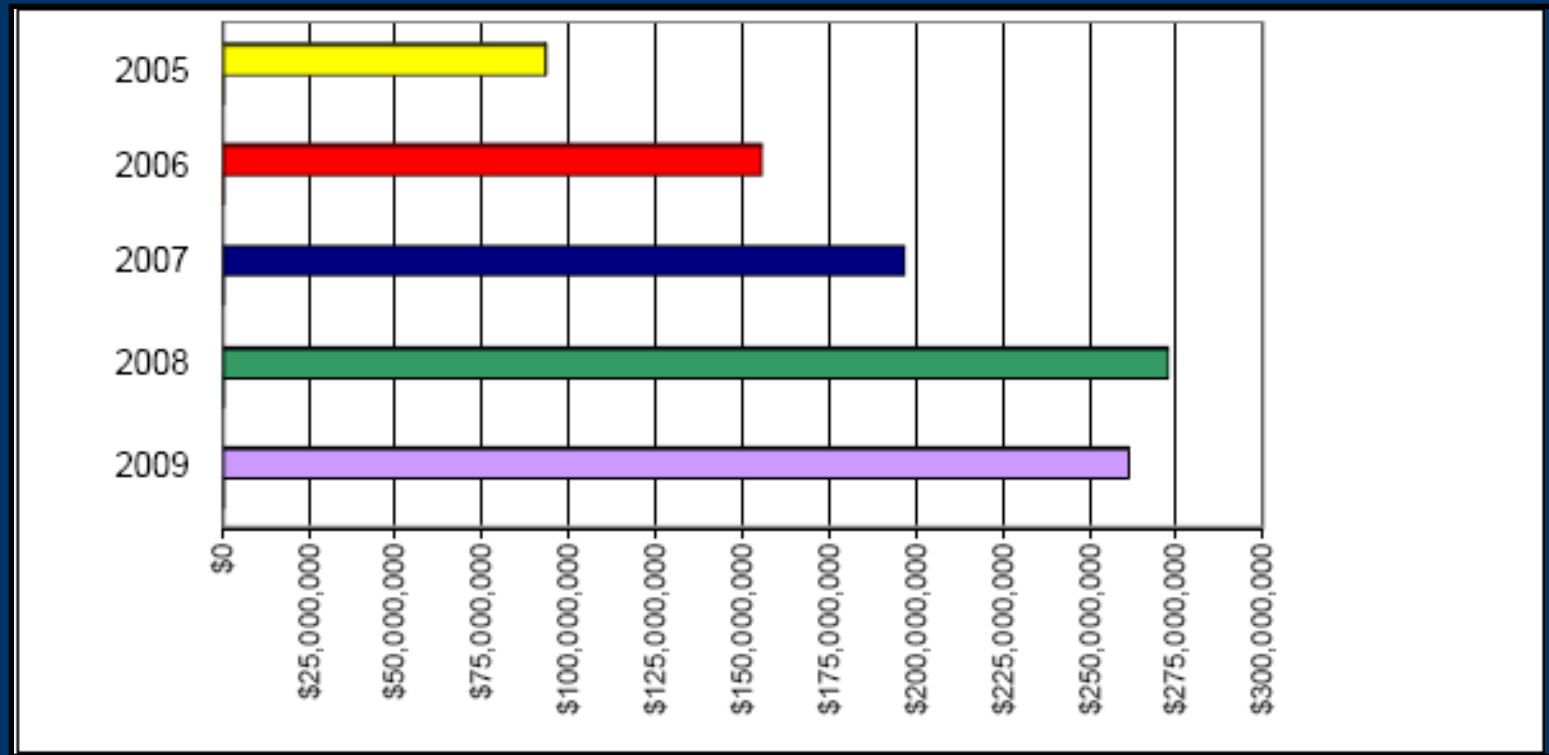
# CBP Enforcement Process



## Disposition:

- Copyright - goods are destroyed
- Trademark - destroyed unless given permission from IPR holder to remove violative marking from merchandise
- Alternative disposition with permission of IPR holder

# IPR Seizures FY 2005-2009

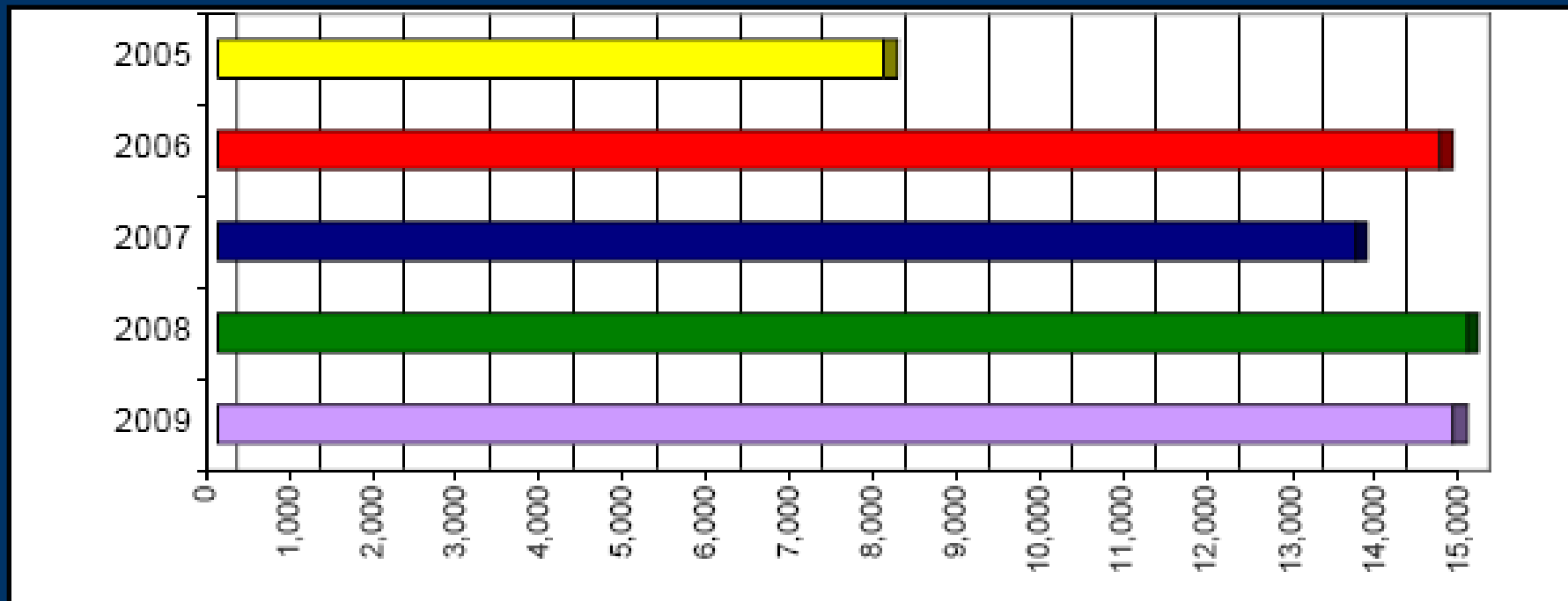


Domestic Value of Seizures in Millions



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# IPR Seizures FY 2005-2009



Number of Seizures



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# IPR Enforcement: Examples



A display table of counterfeit goods



Mail or courier envelopes declared as “documents” may instead contain:



FedEx envelope containing counterfeit labels

# EXAMPLE: ID Elements and “blanks” shipped separately for eventual assembly:

**Shipment One: Generic bags arrive via ocean container**



Generic black purse

**Shipment Two: Infringing goods arrive via ECO or mail**



Infringing labels



Adhesive generic brand labels used to cover infringing labels or logos...



# Contact Information

- IPR Helpdesk
  - 562-980-3119 ext. 252
  - [ipr.helpdesk@dhs.gov](mailto:ipr.helpdesk@dhs.gov)
- IPR and Restricted Merchandise
  - 202-325-0020
  - [hqiprbranch@dhs.gov](mailto:hqiprbranch@dhs.gov)
- IPR Policy & Programs
  - 202-863-6020
  - [iprpolicyprograms@dhs.gov](mailto:iprpolicyprograms@dhs.gov)

Visit us online at:

- [www.cbp.gov/ipr](http://www.cbp.gov/ipr)

# QUESTIONS



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